

***United States Court of Appeals
for the Second Circuit***



APPENDIX

Orig. w/ affidavit of mailing

75-2130

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 75-2130

~~JOE~~
JOSE STEVENSON SADDLER, *Appellant,*

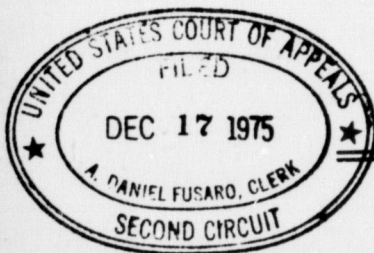
—against—

UNITED STATES OF AMERICA, *Appellee.*

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

GOVERNMENT'S APPENDIX

DAVID G. TRAGER,
*United States Attorney,
Eastern District of New York.*



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P/S

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THE COURT: All right, you may examine.

Q Mr. Saddler, you're Joe Stevenson Saddler, is that right?

A Right.

Q And you understand that you are charged with the crime of bank robbery here, is that correct?

A Correct.

Q Now, were you in fact arrested for an offense by Agent Janson, present in the Court?

A I was arrested by him.

Q And do you remember when that was? You are going to have to speak up.

A Saturday about eleven o'clock in the night.

Q Now, was that the first time that you had seen Agent Janson?

A Correct.

Q And at that particular time where were you located, if you recall?

A 320 St. Nicholas Avenue, on the block.

MR. DE PETRIS: Might I ask the defendant to speak up a little louder.

THE COURT: I can't hear.

THE WITNESS: On the block of 320 St. Nicholas Avenue.

Saddler-Direct

A

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Q What were you doing on the street?

A I was in the process of purchasing drugs.

Q And what time had you arisen, awakened on the morning -- on June 10th, 1972?

A About nine o'clock, nine-thirty that night.

Q That night?

A Right.

Q And what time had you -- did you use any drugs on June 10th, 1972?

A Yes, I did.

Q When was that?

A It was about seven. About seven I already had a certain amount with me and I run out so I got up and dressed to make a purchase. So I caught a cab and went downtown to make a purchase and that's when I was arrested.

MR. DE PETRIS: Excuse me, was that seven o'clock?

MR. MC CARTHY: Yes.

MR. DE PETRIS: A.M. or P.M.?

MR. MC CARTHY: I will get to that.

Q Was that 7 A.M. or 7 P.M. when you --

A In the evening.

Q Okay, did you shoot any other drugs that day?

A Earlier.

Saddler-Direct

A

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Q What time was that?

A Around nine o'clock that morning.

Q What type of drug were you using, were you shotting?

A Cocaine and heroin.

Q Cocaine and heroin, and were you shooting it intravenously, in the vein?

A Yes, I was injecting it into my veins.

Q Were you using drugs daily?

A Yes.

Q And how much would you say you were using?

A Well, 75 to 100.

Q How many bags would you say that was, or how many bags did you use?

A About a bundle.

Q How many bags is that?

A Approximately about 25 to 28 bags.

Q That was a day?

A Right.

Q For how long had you been using them before your arrest on June 10th, 1972?

A About six to seven months.

Q Were you addicted to drugs?

A Yes.

Saddler-Direct

A

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Q And you were addicted on June 10th, 1972?

A Yes.

Q Now, when Agent Janson arrested you, did he show you this form, Government's Exhibit 15 in evidence?

A When he arrested me?

Q Yes. Well, after he arrested you. Take a look at it and see if that's -- is that your signature at the bottom?

A Yes.

Q And did you sign this piece of paper?

A Yes.

Q Did you know what you were signing when you signed it?

A Not really.

Q Withdraw that question.

Did you read the form when you signed it, before you signed it?

A No, I glanced at it a few seconds.

Q And did Agent Janson in fact make a statement to you about your rights prior to the time you signed that paper?

A He read it to me in verbal overtones.

THE REPORTER: Say that again, please.

MR. MC CARTHY: He read it to him in

1
2 verbal overtones.

3 Q Did you understand that you didn't have to
4 make any statement to Agent Janson?

5 A No.

6 Q Did you understand that whatever you said
7 was going to be used against you in a Court of law?

8 A Yes.

9 MR. DE PETRIS: What was that?

10 Q Did you understand --

11 THE COURT: "Yes."

12 MR. MC CARTHY: He said he didn't under-
13 stand that he had the right to remain silent
14 but he understood that anything he said could
15 be used against him in a Court of law.

16 THE COURT: You didn't understand that
17 you had a right to remain silent? Did he
18 say that to you?

19 THE WITNESS: He --

20 THE COURT: No, no, did he tell that
21 to you?

22 THE WITNESS: He told me that I remain
23 silent, and then he said my rights would be
24 used against me.

25 THE COURT: He said that?

Saddler-Direct

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1
2 You know what the word silent means,
3 don't you?

4 THE WITNESS: Yes.

5 THE COURT: You know what the words remain
6 silent mean, too, don't you?

7 THE WITNESS: Yes.

8 THE COURT: Go ahead.

9 Q Well, did you understand that what you said
10 if you in fact said anything would be used against you
11 in a Court of law?

12 A Yes.

13 Q Did you understand that?

14 A Yes.

15 Q And did you understand that you had a right
16 to have a lawyer present --

17 A Yes.

18 Q -- when you were being questioned? You under-
19 stood that? Did you understand that if you couldn't afford
20 a lawyer they would provide one for you?

21 A Yes.

22 Q So at the time that you signed -- well, at
23 the time that you signed Government's Exhibit 15 in evidence,
24 did you understand all those things?

25 A Well, at the -- at the moment of my -- at the time

of my arrest, when I was seized it was -- it was -- they was shown different things. He didn't --

THE COURT: I can't hear what you're saying.

THE WITNESS: He didn't tell me all this until the time of my first appearance.

Q In other words, you didn't see Government's Exhibit 15 --

A Not until I was --

Q -- until you were fingerprinted?

A Right.

Q And was that the first time that Agent Janson told you that you had these rights?

A Right.

Q So then at the time that he showed you Government -- well, at the time that you signed Government's Exhibit 15 you had already made a statement to him, is that correct?

A Right.

THE COURT: Let me get this straight now: You mean you didn't sign and see that paper nor did he tell you the rights about those papers until you made the statement, after you made the statement?

Saddler-Direct

A 8

1
2 THE WITNESS: Yes.

3 THE COURT: That's what you're telling
4 the Court?

5 THE WITNESS: Yes, sir.

6 THE COURT: Are you sure that was the
7 sequence?

8 THE WITNESS: Yes, I was sitting down
9 in the Federal Building.

10 THE COURT: And he fingerprinted you first,
11 then he asked you to make a statement?

12 THE WITNESS: He asked me to read
13 this and then sign it.

14 THE COURT: That or something else,
15 that piece of paper?

16 THE WITNESS: That with my rights he
17 read first.

18 THE COURT: Your rights he first read?

19 THE WITNESS: Right.

20 THE COURT: Then you made the statement?

21 THE WITNESS: No, I had made the statement
22 before.

23 THE COURT: You made the statement
24 before you had your rights read to you?

25 THE WITNESS: Right.

Saddler-Direct

THE COURT: Is that what you're telling

us?

THE WITNESS: Right.

THE COURT: All right.

Q Now I show you Government's Exhibit 16 in evidence and I ask you if that's your signature at the bottom of the first page and at the bottom of the third page?

A Yes.

Q When did you sign that, if you remember?

A About the same time.

Q Did you read --

THE COURT: The same time what?

The same time you signed the others or you first signed this? Which order did you sign in, do you remember?

THE WITNESS: Not exactly. I was just signing what they put in front of me.

Q Did you read Government Exhibit 16 before you signed it?

A No.

Q Do you remember approximately what time you signed it?

A No.

Q I show you the last paragraph of Government's

Saddler-Direct

Exhibit 16 and I ask you did you write that in there? Did you write that particular portion?

A Yes.

Q Did you sign that yourself -- did you write that in yourself or did somebody tell you what to write in there?

A Told me what to write in.

Q Who told you what to write in?

A Officer right there.

Q Did he dictate it to you?

A Yes, he --

Q In other words, did he say --

A I wrote and he spoke.

Q Well, do you know what consist means?

A Who?

Q Consist?

A To have or be part of, or to hold.

Q Do you know what true and correct means?

A True?

Q True and correct?

A You -- true and correct?

Q Yes.

A Yes.

Q Did you ever use that phrase true and correct

Saddler 1

Saddler - direct

- PL?nd in your normal daily speech?

3 A No.

4 Q Now, after you were --

5 THE COURT: You don't use the word
6 "true" in your daily speech?7 THE WITNESS: Well, people, I am around
8 we don't -- we use slang when we talk.9 THE COURT: I know you use slang, I do
10 that, too. I just want to know whether you use
11 the word "true"?

12 THE WITNESS: Not exactly.

13 THE COURT: Did you ever use the word
14 "lie"?

15 THE WITNESS: I just say, "It's a lie."

16 THE COURT: But you never say, "That's
17 true," you never use that expression?

18 THE WITNESS: Very seldom.

19 THE COURT: You never use the words, "correct"
20 or "You are correct" or "I am wrong"?

21 THE WITNESS: Not exactly.

22 Well, I say, "You aren't together."

23 THE COURT: What?

24 THE WITNESS: I will just say, "You are not
25 together."

2

Saddler - direct

THE COURT: You mean correct means together?

THE WITNESS: Sir?

THE COURT: Correct means together?

THE WITNESS: Well, your slang talk.

THE COURT: What does it mean in our talk?

THE WITNESS: In our talk I wouldn't say it means correct, I would say it means right.

THE COURT: "Right"?

Q Do you use the phrase "true and correct" to describe statements?

A No, I just wrote what I was told.

MR. DE PETRIS: Your Honor, the Government concedes that he wrote what the agent -- the agent dictated the information to him. The question is, did he understand.

Q Now, how long had you been awake by the time that you signed Government's Exhibit 15 and Government Exhibit 16?

A How long had I been awake?

Q Yes, in other words, from the time you last awakened, whenever that was, from a sleep?

A Well, at the time of the arrest and the signing of the

3 Saddler - direct

A 13

statement, how long?

Q Yes.

A Well, from 11:00 at night to when they picked me up.

Q Did you sleep at all --

A No.

Q -- after eleven o'clock until you signed those statements?

A No, I didn't.

Q Do you remember what you ate?

A Didn't eat nothing.

Q And did there come a time on June 10th that you started to enter withdrawal?

Do you know what "withdrawal" means?

A Yes, sir, I do.

Q What does it mean?

A It mean that the drainage -- drainage taking -- well, sort of -- It's sort of like you -- you taking from, you taking from.

THE COURT: What does it mean?

THE WITNESS: Draining from or taking from.

THE COURT: Yes, but what does it mean in your language?

4

Saddler - direct

A

14

THE WITNESS: Withdrawal?

THE COURT: Yes, in your distinct
language, what does it mean in drug language?

THE WITNESS: The way I would say it?

THE COURT: Yes.

THE WITNESS: I would just say, "The
monkey coming down on me."

THE COURT: The monkey was coming down
on you?

(Continued next page.)

2 flws. 12

Q Does that mean you're starting to feel the physical effects of not having drugs?

A Right.

Q Did there come a time on June 10, or after your arrest that you started to enter withdrawal?

A About four hours later.

Q What time was that, about?

A About -- About 3:30.

Q In the morning?

A Yes, the following -- the night.

THE COURT: Did you ever go through a full withdrawal, right there?

THE WITNESS: Not exactly. I had --

THE COURT: The monkey coming down?

THE WITNESS: I had consumed -- I had consumed a big quantity of drugs that morning.

THE COURT: And you say it was five hours, six hours, how long after that was it that you took the drugs at 7:00 o'clock?

THE WITNESS: I had took the last drug, a half --

THE COURT: At 7:00 o'clock?

THE WITNESS: No, between 7:00 that morning, after I woke up --- I woke up about 7:00,

1 2
2 went back to bed, woke up again about 8:00 or
3 9:00. I took some drugs, started to feel a
4 little. I took some drugs, and I was taking
5 them throughout that day.

6 THE COURT: And at 7:00 o'clock at night
7 you took your last shot?

8 THE WITNESS: Right.

9 THE COURT: And you say at 3:00 o'clock
10 in the morning, you started to feel withdrawals?

11 THE WITNESS: Right, takes a lot. And I
12 was in -- That's why I was out that night --

13 THE COURT: Was this a mild monkey down,
14 or was it a --

15 THE WITNESS: A strong one.

16 THE COURT: A strong one?

17 THE WITNESS: Yes.

18 THE COURT: Did you tell anybody you felt
19 sick at that moment?

20 THE WITNESS: Yes.

21 THE COURT: Whom did you tell?

22 THE WITNESS: The Officers.

23 THE COURT: The Officers, you told them
24 you felt sick?

25 THE WITNESS: I told them I would be sick

3

in a little while.

THE COURT: You told them you would be sick --

THE WITNESS: In a little while.

THE COURT: (continuing) -- You didn't tell them you felt sick?

THE WITNESS: Right. I didn't feel sick at the time --

Q When did you first begin to feel sick?

A What's that?

Q When did you first begin to feel sick?

A About four hours after my arrest.

Q And were you sick continuously from the time, from about 3:30 until you signed the statement?

A Yes, I was.

Q Now, did you tell any of the Agents that you felt sick?

A Yes, I did.

Q How often did you -- Well, how many times did you tell them?

A Well, sporadically. I would -- I told them I was needing drugs, and I was using drugs, and they said as soon as they get through with me, they are going to see that I get medical attention.

4

Q Now, after you were arrested -- You were up all night, is that correct?

A Correct.

Q And you were taken to FBI headquarters, is that correct?

Well, you were taken to a building, is that correct?

A Yes.

Q And did you speak to Agent Janson at that time?

A Yes.

Q And had you had anything to eat before you first spoke to Agent Janson on the morning of June 11, 1972?

A No.

Q When did you first receive any food on June 11, 1972?

A After I signed the statement. While I was in the process of signing the statement and getting fingerprints, they offered me a cup of coffee and a roll.

Q Now, after you had the cup of coffee and the roll, were you then taken over to West Street --

A No.

Q (continuing) -- the House of Detention? Where did you go from there?

A I was taken to Court. They transported me --

Q When did you leave the building?

Saddler - direct/McCarthy

1 S

2 A About 1:00 or 2:00 o'clock.

3 Q Did you then go to West Street?

4 A Yes.

5 Q Did you receive any medication in West Street?

6 A Yes.

7 Q What did you receive?

8 A Methadone.

9 Q Did you receive any medication after June 11,

10 1972?

11 A Yes.

12 Q What did you receive?

13 A What sort of medication --

14 Q Well, immediately after -- Did you receive any
15 medication on June 12?

16 A I received medication for -- for the drug problem.

17 Q Did you receive methadone on June 12?

18 A Right.

19 Q Did you receive methadone on June 13?

20 A Right.

21 Q How many days in a row did you receive metha-
22 done?

23 A I received methadone for about two weeks.

24 Q Did you speak to the Agents on -- Did you speak
25 to Agent Janson on June 20, 1972; in other words, about a

1 6
2 week after, or approximately a week, ten days after your
3 arrest?

4 A I spoke to him the day I was brought here to Court.

5 Q And did you then -- Did you also speak to any-
6 one else at that time?

7 A Well, the first day I was brought here in the court-
8 room, he wasn't here. It was some other Agent. And they
9 were showing me pictures and whatnot.

10 Q Did you testify in the Grand Jury?

11 A Sir?

12 Q Did you testify in the Grand Jury?

13 A Testify?

14 Q Yes, did you -- You know, what you are doing
15 now, testify.

16 A Yes, I took a seat.

17 Q You took a seat?

18 A Yes.

19 Q Did you know what you were doing at the time
20 you went to the Grand Jury?

21 A Well, --

22 Q Did you know what the Grand Jury was?

23 A No.

24 Q Did you contact any lawyers prior to the time
25 you went to the Grand Jury?

1 7

2 A I didn't have any. I was just there by myself, on
3 my own.

4 Q Did any of the individuals who spoke to you
5 prior to the time you went to the Grand Jury tell you that
6 you did in fact have a lawyer, you had Legal Aid?

7 A No.

8 Q No? Did you know that Legal Aid was a lawyer?

9 A The guys at West Street told me they'd give me a
10 Legal Aid or --

11 Q Do you remember being represented by anybody
12 on June 12, 1972? That's when you were brought before the
13 Magistrate downstairs?

14 A No.

15 Q Now, when you gave -- When you spoke -- Prior
16 to the time you signed Government's Exhibit 15 and 16, did
17 you make a full statement to Agent Janson?

18 A A full statement?

19 Q Yes, in other words, did you tell him about the
20 bank robbery?

21 A No, not exactly.

22 Q When did you tell him about the bank robbery?

23 A They told me about it.

24 Q They told you about it?

25 A Right.

Saddler - direct/McCarthy

8

Q When was that?

A After they arrested me and about an hour later, during the process of it.

Q Did you tell them that what they told you was true?

A Sir?

Q Did you tell them that what they told you was true?

A No.

Q No? Did you make any statements to them at all concerning your participation in this robbery on the day that you were arrested?

A No, I told them that I was purchasing drugs, and they had the wrong guy.

MR. MC CARTHY: I have no further questions, your Honor.

THE COURT: Mr. DePetris, do you have any questions?

MR. DE PETRIS: Just a few, your Honor.

(continued on next page.)

9

CROSS EXAMINATION

BY MR. DE PETRIS:

Q Mr. Saddler, did you take the Agents to your apartment on the night of June 10 or the morning of June 11 of 1972?

A Yes, I did.

Q Did you show them where it was?

A Yes, I did.

Q So you knew what you were doing at that time?

A Right. I had --

Q Did you take the Agents to a bar that night?

A To a bar?

Q Yes.

A Well, I took them to a bar. I think I mentioned a few of them.

Q And did you take them there -- Did they tell you they wanted you to point someone out in a bar?

A Yes.

Q Did you tell them certain people might be there?

A I knew nobody would be there, but I had to take them somewhere because they wouldn't take no for an answer.

Q So you went to the bar with them, and --

A In other words, a wild goose chase.

10

Q You told them Bob and Tex might be in that bar?

A No, but I told them that the guys they were looking for probably would be in there.

Q Did you call them Bob and Tex?

A I called them the names they give me.

Q So you knew what you were doing at that point?

A Right, I --

Q I say, you knew what you were doing at that point?

A Yes.

Q Did you take the Agents to 438A Lexington Avenue?

A No, I didn't.

Q Did you hear Agent Janson testify that you did?

A I did.

Q Was he lying?

A One of us is.

Q That's obvious.

MR. MC CARTHY: Could we have that last portion stricken from the record, your Honor?

THE COURT: You mean "obvious"?

MR. MC CARTHY: That's right.

THE COURT: The rest is for the Court.

MR. MC CARTHY: Pardon me?

1
2 THE COURT: I say, the rest is for the
3 Court. The word "obvious" is out, but the rest
4 is for the Court.

5 Q Did you tell the Agents you wanted to cooperate
6 with them in every way?

7 A No.

8 Q Did you tell them that you'd be willing to
9 testify?

10 A No.

11 Q Then why did you go into the Grand Jury?

12 A Well, I -- Where else was I supposed to go?

13 Q Did you answer questions in the Grand Jury?

14 A Yes.

15 Q Why did you answer the questions?

16 A He told me to answer when I went up there.

17 Q Do you do everything that you're told?

18 A Yes.

19 Q Did any Agent coerce you in any way on the
20 night of June 10 or the morning of June 11, 1972?

21 A Sir?

22 Q Did any Agent beat you or punch you up on the
23 night of June 10 or the night of June 11, 1972?

24 A Yes, I was punched.

25 Q Did you say anything about that on your direct

examination?

A 26

A No.

MR. MC CARTHY: Objection, your Honor.

That was not -- If I wanted to raise it on direct,
I would have raised it on direct.

THE COURT: He didn't ask him. I don't
know why you should ask him, he didn't ask him.

MR. DE PETRIS: I think it affects his
credibility, your Honor.

THE COURT: No. Sometimes things not
said are better than things that are said.

(continued on next page.)

1 Q Before you entered the Grand Jury Room on the
2 day of June 20, 1972, did you tell the Agents that you guessed
3 there was no turning back, that you have got to go ahead now?
4

5 A No.

6 Q I show you Government's Exhibit 15 in evidence.
7 Is that your signature, Joe Saddler?

8 A Yes.

9 Q What time did you sign that document?

10 A I don't know.

11 Q Did you sign that document in the FBI car at
12 the point where you were arrested?

13 A I signed several documents. I couldn't tell one from
14 the other.

15 Q Did you sign a document at the time you were
16 arrested?

17 A At the time I was arrested?

18 Q Right, at 11:24 P.M. on the night of June 10,
19 --

20 A I was taken to two different buildings.

21 Q Did you sign any document in an FBI car at the
22 spot where you were arrested on the night of June 10?

23 A At the spot where I was arrested? I doubt it. I was
24 handcuffed behind the back.

25 Q Do you recall the handcuffs being taken off so

1 2 that you could sign the document?

2 A They showed me some pictures, right.

3 Q Did you sign a document after they took the
4 handcuffs off you?

5 A I may have.

6 Q You testified on direct examination that you
7 were not advised of your rights before you were fingerprinted.

8 A No. The time when he advised me of my rights to sign
9 the testimonial part. Then I was advised of my rights.
10 When he arrested me and put me in the car and showed me an
11 assortment of pictures, he was showing me different pictures,
12 and he told me about something, but he didn't mention no
13 rights. He just told me to sign a piece of paper.

14 Q You testified on direct examination that you
15 were going through a heavy withdrawal, is that your testi-
16 mony?

17 THE COURT: He was just starting a
18 medium withdrawal. He didn't say heavy. About
19 3:00 o'clock in the morning.

20 Q Around 8:00, 9:00, 10:00 o'clock the next morn-
21 ing, were you still going through withdrawal?

22 A Yes, I was.

23 Q How was it at that point, did you know what
24 you were doing?
25

1 3

2 A No. I was delirious.

A 29

3 THE COURT: You were delirious at 9:00
4 o'clock in the morning?

5 THE WITNESS: I needed drugs.

6 THE COURT: Did you get drugs every day?

7 THE WITNESS: Every day.

8 THE COURT: Every day?

9 THE WITNESS: Day and night.

10 THE COURT: Did you go through a with-
11 drawal every six hours every day?

12 THE WITNESS: I tried detoxification.

13 THE COURT: Let me ask you a question,
14 your last shot was at 7:00 o'clock at night,
15 right?

16 THE WITNESS: I had a shot, but --

17 THE COURT: 7:00 o'clock at night. Now
18 we are talking about 8:00 o'clock in the morn-
19 ing.

20 You are telling the Court that you were
21 going through delirious withdrawals at 8:00
22 o'clock the next morning from not having a shot?

23 THE WITNESS: I needed some drugs.

24 THE COURT: I want to know at 8:00
25 o'clock in the morning if you were going through

delirious withdrawals twelve hours after your
last shot, that's what I want to know?

30

THE WITNESS: Twelve hours?

THE COURT: That's all it is.

THE WITNESS: I was going through
heavy withdrawals all the time.

THE COURT: That's your answer. All
right.

BY MR. DE PETRIS:

Q Did you know what you were doing at 8:00, 9:00,
10:00 o'clock in the morning of June 11, 1972?

A Did I know what I was doing?

Q Yes.

A Not in the sense.

Q You testified on direct examination that you
were asked, that you knew you had a right to a lawyer, isn't
that correct?

A Right.

Q You testified that that was told to you about
the time you were being fingerprinted, and that was in the
morning of June 11, is that correct? Did you know what you
were doing at that time?

A Did I know what I was doing?

Q Yes.

A I was just answering and asking what I was being asked

5

and answered.

Q You knew you had a right to a lawyer at that point?

A They told me I had a right to a lawyer.

Q You knew that?

A Did I know that?

Q You understood what they told you?

A In the way I was at the time, it was like going in one ear and coming out the other.

Q You understood you had a right to a lawyer?

A I didn't understand.

Q I show you Government's Exhibit 8 in evidence. Is that a photograph of yourself?

A Yes, it is.

Q Do you know when that was taken?

A Not exactly.

Q Would you say you were going through withdrawal symptoms at the time that photograph was taken?

A Yes, I were.

Q Any sign of that in the photograph?

A What?

Q Any sign that you were going through withdrawal symptoms in the photograph?

MR. MC CARTHY: Objection. The photo-

graph speaks for itself.

A 32

THE COURT: Sustained. I don't think
we have to go through that much more.

MR. DE PETRIS: All right, your Honor.

Q Mr. Saddler, have you ever been convicted of
a crime?

A Do I have to answer that?

THE COURT: Yes.

A Yes, I have.

Q How many times?

A About three.

Q What crimes?

A Auto theft.

Q Every time?

A Yes.

MR. DE PETRIS: That's all.

(continued on next page.)

REDIRECT EXAMINATION

BY MR. MC CARTHY:

Q Mr. Saddler, since Mr. DePetrìs brought it up--

THE COURT: What's that?

MR. MC CARTHY: On cross examination.

MR. DE PETRIS: I will withdraw the questions.

THE COURT: Too late to withdraw it.

BY MR. MC CARTHY:

Q Were you beaten by anyone?

A Yes, I were.

Q Who were you beaten by?

A Officer sitting there.

Q Agent Janson?

A Yes, sir.

THE COURT: Is this when --

Q What did he do to you?

THE COURT: Was this when you were going through your withdrawals, after or before?

THE WITNESS: Before withdrawals.

Q What happened? Tell us what he did.

A This was immediately, approximately, after the arrest.

Q What did he do to you?

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1 A Well, he was threatening me in all sorts of manners,
2 that he's going to shoot me on sight, and the guy up front
3 that was on my right hand side, say he'll drag me out and
4 shoot me now if I don't come up with this and that, so he
5 told me the guy on the right hand side was impatient, and
6 he's a hard guy, and he punched me in the stomach, and I
7 ducked over, so the Agent sitting there was beating me in
8 the stomach with a flashlight and asking me how long do I
9 think I can hold my breath, and they started driving me all
10 around Manhattan and Brooklyn and different places and
11 threatening me.

12 Q Did anybody hold a gun to your head after you
13 were arrested?

14 A The guy up at the wheel.

15 THE COURT: He had a gun to your head?

16 THE WITNESS: Yes, sir.

17 Q Were you in handcuffs at the time?

18 A Yes, I were.

19 Q Did this other fellow ever hold a gun to you
20 when you were in the FBI building?

21 A No.

22 Q Do you remember how long after you were ar-
23 rested that the other fellow held a gun to you?

24 A After I was arrested?

25

9

Q Yes.

A Well, I was already under surveillance (sic.).

Q How long after you were taken into custody was this gun held to your head?

A Maybe one and a half to two hours.

THE COURT: The fellow stood there with the gun at your head for one and a half to two hours, he held a gun like this to your head (indicating), indicating putting the finger toward the temple?

MR. MC CARTHY: I respectfully submit that is --

THE COURT: I want to find out.

Q In which manner did he hold the gun?

A The guy up under the wheel was sitting with the gun resting upward, and every now and then he pointed it at my face, at my nose.

THE COURT: What would he say when he pointed it at your nose?

THE WITNESS: He didn't say nothing.

Q At any time, did anybody point a gun at you when you were in handcuffs and say something to you?

A Yes, they did.

Q What did he say?

1 10

2 A They asked if this was me, and I said, no, it wasn't.
3 He said it was, I said it wasn't. I said I was taking drugs,
4 which I did, and he say where I was from, and I told him
5 Chicago. He say, well, I'm going to get twenty-five years
6 maximum, anyway, because they're hard on guys that don't
7 live here, and he said if this certain guy, this and that
8 certain guy that, and I said, I don't know the guys, and so
9 he punched me with the flashlight, and I kept saying, no, but
10 he wouldn't take no for an answer, because everything I said
11 no to, he either kept with the punishment until I said yeah,
12 so I was still subjected to it.

13 MR. MC CARTHY: I have no further ques-
14 tions.

15 THE COURT: Do you have any questions?

16 MR. DE PETRIS: Two questions, your
17 Honor.

18 (continued on next page.)
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RECROSS EXAMINATION

BY MR. DE PETRIS:

Q Have you discussed this case with the defendant Biggs and the defendant Triggs, or Matthews?

A Have I discussed this case?

Q Yes.

A My case?

Q You talked with them about the case at any time up to today?

A Have we talked about this case?

Q Yes.

A Each been talking about how they got, you know, supposed to be involved in this.

Q Yes or no, have you talked about the case?

A I want to understand correctly what you mean?

THE COURT: Just about the case.

Q Have you discussed anything about the case with either of those two men?

A Yes, I have.

Q Did you ever report that you were beaten to anybody at the hospital?

A Have I reported it?

Q To anybody at the hospital?

1 12

2 A The doctors or inmates?

3 Q Doctors.

4 A To the doctors?

5 Q Yes.

6 A Well, they wouldn't let me see the doctor.

7 Q Did you ever receive any treatment for any
8 beating at the hospital?

9 A I received methadone.

10 Q For any beatings, I am talking about?

11 A No.

12 Q Did you ever report this to a Magistrate or a
13 Judge at the time you were arraigned?14 A I didn't get the chance to speak -- I didn't get the
15 chance to say nothing, all I did was go up and say a few
16 words, and they say, all right, step down.

17 Q Do you have any photographs of any bruises?

18 A No.

19 Q You spoke to Mr. McCarthy on June 12, 1972,
20 isn't that correct?

21 A June 12?

22 Q The day you were first brought before the
23 Court, before the Magistrate downstairs?

24 A I spoke to him, but I don't remember when.

25 Q And that was the day after you say you were

13

supposedly beaten, isn't that correct?

A When I first saw him, I told him about it then.

Q That was the day after you were supposedly beaten, is that correct, that was June 12, 1972, when you appeared before the Magistrate and Mr. McCarthy was assigned to you, is that correct?

MR. DE PETRIS: Is that correct, Mr. McCarthy?

MR. MC CARTHY: That's correct.

Q And that was the day after you were supposedly beaten, is that correct? You appeared here on a Monday, You say you were beaten when, on a Sunday morning?

A At the time of my arrest.

Q Saturday night and Sunday morning?

A Right.

Q So this was a day later?

A When I seen him, right.

Q Dopyou have any photographs of any bruises?

No.

MR. DE PETRIS: No questions.

I didn't report it.

(continued on next page.)

REDIRECT EXAMINATION

A 40

BY MR. MC CARTHY:

Q Mr. Saddler, didn't you tell me on June 12, 1972, when you were arrested, after you were arrested, rather, and before you went before the Magistrate, that you had been hit in the stomach with a flashlight?

A Right.

Q Didn't you tell that to me on that day?

A Right.

Q And that the Agents had threatened to throw you out of the car, didn't you tell me that on that day?

A Right.

Q And this was two days after you were arrested, correct?

A Right.

THE COURT: Did anybody say this to the Magistrate?

MR. MC CARTHY: Judge, I will represent that I spoke to the defendant and I made a note of this. I did not mention that to the Magistrate.

THE COURT: That's all I want to know.

MR. MC CARTHY: If your Honor wishes, I

will offer a copy of my notes.

THE COURT: I don't want the notes. ^A 41
I know you put it down if he told it to you. You
are a lawyer. You have to put it down if he
tells you.

You wouldn't throw it away.

MR. DE PETRIS: No further questions,
your Honor.

MR. MC CARTHY: I have no further ques-
tions, your Honor.

THE COURT: Does anyone else have any
questions?

Step down.

(Witness excused.)

Was anybody else going to take this
witness stand?

MR. MC CARTHY: I have no further wit-
nesses.

THE COURT: Anyone else?

MR. ADAMS: Just one moment, please,
Judge. (Pause)

No, sir.

THE COURT: How about Mr. --

MR. ROSENTHAL: No questions.

1 UNITED STATES DISTRICT COURT

A 42

2 EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D. NY

3 -----
4 UNITED STATES OF AMERICA,

JAN 30 1974

5 -against-

TIME AM.....
PM.....

72 CR 718

6 JOE SPEDLER,

7 Defendant.

8 -----
9 United States Courthouse
10 Brooklyn, New York
11 February 16, 1973
12 11:00 O'clock A.M.

13 B e f o r e:

14 HONORABLE MARK A. COSTANTINO, U.S.D.J.

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16 (Criminal Cause for Sentence)
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UNITED STATES
DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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APPEARANCES:

JOHN A. MOORE, ESQ.,
United States Attorney for the
Southern District of New York

BY: DONALD DE POTRIS, ESQ.,
Assistant United States Attorney.

LEGAL AID SOCIETY,

EDWARD KELLY, ESQ.,
Attorney for Defendant.

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1 THE COURT: This is Saddler?

2 MR. KELLY: Yes, your Honor.

3 THE COURT: What do you have to say?

4 MR. KELLY: Your Honor, even before I met
5 Mr. Saddler the first time this morning -- as you
6 recall, this case was handled by David McCarthy
7 of our office -- even before I met him and read
8 the probation report, it was my evaluation of the
9 defendant's background, that the Court would only
10 be in the best position to sentence him if he were
11 given a 4203(b) commitment.

12 I attempted --

13 THE COURT: 4203 (b) commitment?

14 MR. KELLY: Yes, a (b) commitment, your Honor.

15 This defendant has in his background, a
16 history of attempts at suicide.

17 I have a letter from the Knickerbocker
18 Hospital, at which Mr. Saddler was treated. They
19 indicate that he has some very grave emotional
20 problems that stem from his childhood. He also
21 has the problem of drug addiction.

22 I attempted to talk to Mr. Saddler this morning,
23 to introduce myself, and he did not respond at all,
24 and spoke in an incoherent way.
25

1
2 I think the Court would be in the best position
3 to properly impose sentence on this defendant, if a
4 judge were made of this defendant's background, his
5 emotional problems, his narcotics addiction under
6 control, and I would therefore urge for that reason
7 that he be given a jail sentence.

8 THE COURT: I really don't agree with you.
9 I don't think he's a candidate for 4203 (C). I think
10 he should be given a jail sentence, and if they
11 want to examine him in jail and send him to an
12 institution, let them do it.

13 There are proper facilities to do so, and
14 it's not for this Court to do so.

15 Under the circumstances of the case, I get
16 no indication, either by his previous record or
17 anything else, that that's what should be done with
18 him.

19 MR. DAVIDSON: I would agree, your Honor.
20 And your Honor has had an opportunity to observe
21 Mr. Muller for several days, during the course of
22 the hearings.

23 THE COURT: I don't follow that at all. What
24 does he get to say a lot of himself? Does he
25 have anything to say?

1 Do you have anything to say? Do you have
2 anything to say on behalf of yourself?

3 THE DEFENDANT: What it look like?

4 THE COURT: You want to say --

5 THE DEFENDANT: What it look like? I here.

6 THE COURT: No, this Court is ready for
7 testimony then. Not under 4208(b).

8 All right, the Court passes sentence on this
9 defendant: 13 years, 4208(a) (2).

10 THE DEFENDANT: My attorney?

11 THE MARSHAL: Yes.

12 THE COURT: With a recommendation that if they
13 should find he needs mental assistance, they can give
14 it to him in prison.

15 MR. DE PETRIS: Your Honor, at this time, the
16 Government would move to dismiss counts two and three
17 of indictment No. 72 CR 731.

18 THE COURT: Those counts are dismissed.

19 Anything else?

20

A 47 FILED
MARCH 23-1973. IN CLERK'S OFFICE
Joe S. Saddler, S. DISTRICT COURT E.D. N.Y.
Atlanta ga.

★ MAY 11 1973 7★

TO: The Honorable,
Judge' Mark A. Constantino.
My name Is Joe Saddler. I was sentenced by your honor.
Approxnently, feb 16-1973 for twelve years. for particsipating In an,
Armed robbery. which took place June 6-1972.

TIME A.M.
P.M.

Well let me not Infatuate you with preliminaries.
Your honor, I Joe Saddler has been Incarcerated for precisely one year.
I have had time to re-arrange my thoughts. an expell my unjustifications,
For a betterment of my future. your honor, It may seem no suprise to you.
But I do have some responsibilities to accept.
I hhave a very fine son, and daughter which has a mother, that needs us-
As one. I am aware, that I did not heed this fact' when I had the chance-
Befitted me. and I regret this deeply. Its not that I'm asking to be re-
Leased, or set free. I need pity not' for my wrong deed.
But I am asking you as a compassionate man. to bestow upon me a time cut.
Therefor the wait will not be as long, for me to join my family.
The Impression alone, will leave a shock upon my family.
And I dread'to think, that this fact' should happen to my son.
For me to recieve this time cut. would to me, become a blessing.
It may give ne time to reinstate myself, and my devotion to my loved ones.
Righten my moral standards, for my family. and repent myself,
For this deviation of criminalality, I have Infested upon myself.
I know you are a very busy man. and this letter has probably taken-
Up to much of your time. but thank you, for your consideration by occ-
aping your time'to read my condolences"
Thanking you very much, your Hon' Constantino...

SINCERILY
JOE S SADDLER.

AFFIDAVIT OF MAILING

STATE OF NEW YORK
COUNTY OF KINGS
EASTERN DISTRICT OF NEW YORK, ss:

----- EVELYN COHEN -----, being duly sworn, says that on the 17th
day of December, 1975, I deposited in Mail Chute Drop for mailing in the
U.S. Courthouse, Cadman Plaza East, Borough of Brooklyn, County of Kings, City and
State of New York, a Government's Appendix
of which the annexed is a true copy, contained in a securely enclosed postpaid wrapper
directed to the person hereinafter named, at the place and address stated below:

----- Edward M. Chikofsky, Esq. -----
----- Proskauer Rose Goetz & Mendelsohn -----
----- 300 Park Avenue -----
----- New York, N.Y. 10022 -----

Sworn to before me this
17th day of Dec. 1975

Alga P. Morgan
ALGA P. MORGAN
Notary Public, State of New York
11-21-4501265
Qualified in Kings County
Commission Expires March 30, 1977

Evelyn Cohen

